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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,214	01/26/2004	Timothy L. Kohler	03630.000178.1	6558
5514 7590 12/16/2009 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
HANG, VU B				
ART UNIT		PAPER NUMBER		
2625				
MAIL DATE		DELIVERY MODE		
12/16/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/763,214

Applicant(s)

KOHLER ET AL.

Examiner

Vu B. Hang

Art Unit

2625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-7, 13-16, 18, 20-26, 29, 32-35, 37, 39-45, 48, 51-56, 58-64, 67 and 70-74.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/David K Moore/
Supervisory Patent Examiner, Art Unit 2625

/Vu B. Hang/
Examiner, Art Unit 2625

Continuation of 11, does NOT place the application in condition for allowance because:
The arguments presented on 11/16/2009 have been fully considered but they are not persuasive.

The applicant argues that the cited prior art references, Mori et al. (US Patent 6,417,931 B2), Hill et al. (US Patent 6,023,714), Schneider et al. (US Patent 5,625,758) and Steams et al. (US Patent 5,699,450), fail to disclose or suggest the claimed features "wherein the target device is a color measuring device and the processing capabilities thereof include a minimum distance of separation between color patches and minimum size for the color patches". In response, the examiner points out that Schneider discloses the use of a color measuring device with a printing apparatus for measuring and adjusting color of the print data (see Fig.1 (1-3), Col.5, Line 54 - Col.6, Line 6 and Col.7, Line 60-67). Schneider further teaches providing various color patches (marks) as control elements for adjusting the colors of the print data (see Col.5, Line 54-Col.6, Line 6), and that certain areas of the image data may be used for color measurements (see Col.5, Line 54 - Col.6, Line 6). Schneider also teaches providing position coordinates and dimension of the color patches to be measured to press (see Col.5, Line 54 - Col.6, Line 6). Steams teaches arranging the color patches in predetermined orientation and spacing them apart within focal precision of the sensor for the purpose of sensing and measuring the color patches (see Fig.3 and Col.8, Line 26-51). At the time of the invention, it would have been obvious for one skilled in the art to include a color measuring device as the target device. The motivation would be to perform color correction on the print data. It is also obvious for one skilled in the art to include in the layout information for the color patches, a minimum distance of separation for the images on the recording medium that can be processed. The motivation would be to ensure that the color patches would be measured by the color measuring devices. The color measuring device may only be capable of sensing or reading the color patches at certain areas and/or positions on the print medium.

The applicant further argues that the cited prior art references fails to disclose or suggest the features of "determining the layout of the print data based on compatible capabilities between the printing capabilities of the printer and the processing capabilities of the target device, wherein the layout is characterized by an area on the recording medium that is common between the valid area designated by the printing capabilities and a printable area designated by the processing capabilities that is properly processible by the target device". In response, the examiner points out that Mori teaches determining a designation of a valid area on the recording medium, based on obtained sheet size information (see Fig.5, Fig.6 (\$605,\$606) and Col.9, Line 54-65). Hill teaches a method for dynamically adapting the layout of a document for an output device by interrogating and determining the capabilities of an output device (see Fig.2 (200,202,210), Fig.4 (402,404,406,414), Col.2, Line 14-20 and Col. 10, Line 15-47). Schneider discloses a method for communicating between a printer and a print medium processing device to determine their processing capabilities (see Fig. 1 (1,2,3,4), Col.4, Line 3-15, Col.4, Line 17-53, Col.5, Line 8-18 and Col.7, Line 52-59), and teaches determining the layout of the print data used for color adjustment related to the printer (see Fig. 1 (1,2,3,4) and Col.5, Line 54 - Col.6, Line 6), based on the capabilities between the printing capabilities of the printer and the processing capabilities of the target device (see Fig.1 (1,2,3,4), Col.3, Line 18-28, Col.4, Line 41-53 and Col.5, Line 9-18). At the time of the invention, it would have been obvious for one skilled in the art to include to Mori's method, the steps for communicating with the printer and the target to determine the printing capabilities of the printer and the processing capabilities of the target device; and determining the layout for the print data based on an area on the print medium that is common between the valid area designated by the printer and a printable area designated by target device. The motivation would be to ensure that the print data layout will be consistent between the printer and the print medium processing device (target device). The obtained printing capabilities information from the printing device and the processing capabilities information from the print medium processing device would enable for the print data layout to be adjusted accordingly to maintain print data layout consistency between the printing device and the print medium processing device. Otherwise, the print medium processing device would perform processing in unintended areas of the print medium.